

material with the Commission. A registered clearing agency for which the Commission is not the appropriate regulatory agency shall at the same time file one copy of such material with its appropriate regulatory agency.

[45 FR 73914, Nov. 7, 1980]

§ 240.17a-23 Recordkeeping and reporting requirements relating to broker-dealer trading systems.

(a) *Scope of section.* This section shall apply to any registered broker or dealer that acts as the sponsor of a broker-dealer trading system.

(b) *Definitions.* For purposes of this section:

(1) The term *registered broker or dealer* shall have the meaning ascribed to it in Section 3(a)(48) of the Act.

(2) The term *broker-dealer trading system* means any facility that provides a mechanism, automated in full or in part, for:

(i) Collecting, receiving, disseminating, or displaying system orders; and

(ii) Matching, crossing, or executing system orders, or otherwise facilitating agreement to the basic terms of a purchase or sale of a security between system participants, or between a system participant and the system sponsor, through use of the system or through the system sponsor.

(3) The term *sponsor* means any entity that organizes, operates, administers, or otherwise directly controls a broker-dealer trading system; and, if the system operator of such broker-dealer trading system is not a registered broker or dealer, any registered broker or dealer that, pursuant to contract, affiliation, or other agreement with the system operator, is involved materially on a regular basis with executing transactions in connection with use of the broker-dealer trading system, other than solely for its own account or as a participant in the broker-dealer trading system.

(4) The term *system order* means any order or other communication or indication submitted by any system participant for entry into a trading system announcing an interest in purchasing or selling a security. The term "system order" does not include inquiries or in-

dications of interest that are not entered into a trading system.

(5) The term *system participant* means any person that is provided access to a trading system (whether through computer terminal, access codes, or other means) by a system sponsor for the purpose of effecting the purchase or sale of securities through use of such system.

(c) *Recordkeeping.* Every registered broker or dealer subject to this section pursuant to paragraph (a) of this section shall:

(1) Make and keep current the following records relating to the broker-dealer trading system:

(i) A record of participants in the broker-dealer trading system (identifying any affiliations between system participants and the system sponsor);

(ii) Daily summaries of trading in the broker-dealer trading system, including:

(A) Securities for which transactions have been executed through use of such system;

(B) Transaction volume (separately stated for trading occurring during hours when consolidated trade reporting facilities are and are not in operation), expressed with respect to stock in trades, shares and in dollar value, and expressed with respect to other securities in trades, number of units of securities and in par value, dollar value, or other appropriate commonly used measure of value of such securities; and

(C) Number of system orders, or other identifiable indicator that accurately reflects participant trading interest, as appropriate in light of configuration of the broker-dealer trading system (expressed separately for priced and unpriced orders, if applicable in light of system configuration);

(iii) Time-sequenced records of each transaction effected through the broker-dealer trading system, including date and time executed, price, size, security traded, counterparty identification information, and method of execution (if broker-dealer trading system allows alternative means or locations for execution, such as routing to another market, matching with limit orders, or executing against the system sponsor's quotations); and

(2) Preserve, for a period of not less than three years, the first two years in an easily accessible place, the following records relating to the broker-dealer trading system:

(i) All records required to be made pursuant to paragraph (c)(1) of this section; and

(ii) All notices provided by the system sponsor to system participants generally (or to one or more classes of system participant), whether written or communicated through the broker-dealer trading system or other automated means, including, but not limited to, notices addressing hours of system operations, system malfunctions, changes to system procedures, maintenance of hardware and software, instructions pertaining to access to the broker-dealer trading system.

(d) *Reporting.* (1) Every registered broker or dealer subject to this section pursuant to paragraph (a) of this section shall:

(i) File the information required by Part I of Form 17A-23 (§249.636 of this chapter) at least 20 calendar days prior to operating a broker-dealer trading system, or, if the sponsor is operating the broker-dealer trading system on June 1, 1995, no later than July 1, 1995;

(ii) During the operation of a broker-dealer trading system of which the broker or dealer is the sponsor, file the information described in Part IA of Form 17A-23 (§249.636 of this chapter) regarding a material change to operation of the broker-dealer trading system as described in any filing previously made with the Commission pursuant to paragraph (d)(1)(i) of this section, at least 20 calendar days prior to implementing such material change, or, where it is commercially impracticable to do so, as soon as possible thereafter when the sponsor determines that it will implement such material change, and in any event no later than 10 calendar days following the implementation of such change;

(iii) During the operation of a broker-dealer trading system of which the broker or dealer is the sponsor, file the information described in Part II of Form 17A-23 (§249.636 of this chapter) within 30 calendar days after the end of each calendar quarter in which the

broker-dealer trading system has operated after July 1, 1995; and

(iv) Within 10 calendar days after a broker-dealer trading system of which the broker or dealer is the sponsor ceases to operate, file the notice described in Part III of Form 17A-23 (§249.636 of this chapter).

(2) The reports provided for in paragraph (d) of this section shall be considered filed upon receipt at the Commission's principal office in Washington, DC. Duplicate originals of the reports provided for in paragraphs (d)(1)(i), (ii), and (iv) of this section must be filed with surveillance personnel designated as such by the self-regulatory organization that is the designated examining authority for the broker or dealer pursuant to §240.17d-1 simultaneously with filing with the Commission. Duplicates of the reports required by paragraphs (d)(1)(iii) of this section must be provided to such surveillance personnel of such self-regulatory authority upon request. All reports filed pursuant to this paragraph (d) shall be deemed to be confidential.

(e) *Maintenance of records in alternative form.* The records required to be maintained and preserved pursuant to this section may be produced, reproduced and maintained pursuant to the provisions of §240.17a-4(f).

(f) *Compliance with other recordkeeping and reporting rules.* Nothing in this section obviates the need for any broker or dealer to comply with any other applicable recordkeeping or reporting requirement in the Act and the rules and regulations thereunder. If the information in a record required to be made pursuant to this section is preserved in a record made pursuant to §240.17a-3 or §240.17a-4, or otherwise preserved by the sponsor (whether in summary or other form), paragraph (c) of this section shall not require the sponsor to maintain such information in a separate file, provided that the sponsor can promptly sort and retrieve the information as if it had been kept in a separate file as a record made pursuant to this section, and preserves the information in accordance with the time periods specified in paragraph (c)(2) of this section.

(g) *Maintenance of records by others.* The records required to be maintained

and preserved pursuant to this section may be prepared or maintained by a service bureau, depository, or other recordkeeping service on behalf of the sponsor of a broker-dealer trading system, provided such entity complies with the provisions of §240.17a-4(i). Agreement with such an entity shall not relieve the sponsor of a broker-dealer trading system from the responsibility to prepare and maintain records as specified in this section.

(h) *Furnishing copies of records.* Every broker or dealer subject to this section pursuant to paragraph (a) of this section shall furnish to any representative of the Commission promptly upon request, legible, true and complete copies of those records of the sponsor that are required to be preserved under this section.

(i) *Exemption from this section.* The Commission, by rule or order, may exempt any sponsor of a broker-dealer trading system from all or any of the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such exemption is consistent with the public interest or the protection of investors.

[59 FR 66709, Dec. 28, 1994]

§ 240.17a-25 Electronic submission of securities transaction information by exchange members, brokers, and dealers.

(a) Every member, broker, or dealer subject to §240.17a-3 shall, upon request, electronically submit to the Commission the securities transaction information as required in this section:

(1) If the transaction was a proprietary transaction effected or caused to be effected by the member, broker, or dealer for any account in which such member, broker, or dealer, or person associated with the member, broker, or dealer, is directly or indirectly interested, such member, broker or dealer shall submit the following information:

(i) Clearing house number, or alpha symbol of the member, broker, or dealer submitting the information;

(ii) Clearing house number(s), or alpha symbol(s) of the member(s), broker(s) or dealer(s) on the opposite side of the transaction;

(iii) Identifying symbol assigned to the security;

(iv) Date transaction was executed;

(v) Number of shares, or quantity of bonds or options contracts, for each specific transaction; whether each transaction was a purchase, sale, or short sale; and, if an options contract, whether open long or short or close long or short;

(vi) Transaction price;

(vii) Account number; and

(viii) The identity of the exchange or other market where the transaction was executed.

(2) If the transaction was effected or caused to be effected by the member, broker, or dealer for any customer account, such member, broker, or dealer shall submit the following information:

(i) Information contained in paragraphs (a)(1)(i) through (a)(1)(viii) of this section;

(ii) Customer name, address(es), branch office number, registered representative number, whether the order was solicited or unsolicited, date account opened, and the customer's tax identification number(s); and

(iii) If the transaction was effected for a customer of another member, broker, or dealer, whether the other member, broker, or dealer was acting as principal or agent on the transaction.

(b) In addition to the information in paragraph (a) of this section, a member, broker, or dealer shall, upon request, electronically submit to the Commission the following securities transaction information for transactions involving entities that trade using multiple accounts:

(1)(i) If part or all of an account's transactions at the reporting member, broker, or dealer have been transferred or otherwise forwarded to one or more accounts at another member, broker, or dealer, an identifier for this type of transaction; and

(ii) If part or all of an account's transactions at the reporting member, broker, or dealer have been transferred or otherwise received from one or more other members, brokers, or dealers, an identifier for this type of transaction.

(2)(i) If part or all of an account's transactions at the reporting member, broker, or dealer have been transferred